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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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G VICTOR TREYZ  
FISH & NEAVE  
1251 AVENUE OF THE AMERICAS  
NEW YORK, NY 100201104

EXAMINER

PHAM, ROBERT T

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/330,793

Applicant(s)

BOYER ET AL

Examiner

Robert T Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-78 and 151-165 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-78 and 151-165 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicant's election with traverse of claims 1-78 and 151-165 in Paper No. 7 is acknowledged.
2. The traversal is on the ground(s) that "The two alleged inventions are neither independent nor distinct" and "There is no serious burden on the Examiner requiring restriction of the two alleged inventions".
3. This is not found persuasive.

In answer to the argument that Group I and II are not "independent nor distinct", the Examiner asserts that the criteria at issue is to show separate utility for the subcombinations usable together (see MPEP 806.05(d)). MPEP 806.05(d) states "the Examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination". In the instant case, the subcombinations are identified as (1) an adaptive browsing feature and (2) an adaptive flipping feature.

The adaptive browsing feature as exemplified by claim 1, where a "display region" within the currently viewed channel displays a program listing of the "suggested" channels related to the current channel.

In contrast, the adaptive flipping feature as exemplified by claim 79, where a "display region" displays a program listing of the currently viewed channel. The adaptive flipping is invoked whenever the viewer changes channel, allowing the viewer to change only to the "suggested" channels that are related to the current channel.

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The adaptive browsing feature can be used without the adaptive flipping feature. By way of example, EPG program listings on a web site can be organized into theme, such as sports, comedy, drama, etc., wherein each group of web pages are built as a carousel, auto-linked together using a "NEXT" button, and associated with meta-data for user interaction. When a viewer is watching a football game, a "display region" displays a program listing of a first page of the sports theme. The viewer then uses the "NEXT" button to browse the remaining sports pages, effectively creating the adaptive browsing feature.

Because the two inventions are distinct, search for group I is not required for group II, and vice versa.

The requirement is still deemed proper and is therefore made FINAL.

Claims 79-150, 166-171 are withdrawn from further consideration on the merits as non-elected claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application

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being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 3-5, 8-27, 29-31, 34-53, 55-57, 60-78, 151-165 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander U.S. Patent 6,177,931.

Regarding claims 1, 27, 53, Alexander discloses an apparatus and method for aiding a user who is viewing a program airing on a current channel in identifying another program to view, wherein:

A user TV equipment on which an IPG is implemented, as described in column 3, lines 1-20;

Monitoring which TV programming is viewed by the user, as described in column 28, lines 32-44;

Determining at least one program attribute, such as genre (sports, comedy, drama, etc.) of the monitored TV programming, as described in column 29, lines 37-55;

Identifying program listings for programs that are suggested based on the program attribute (genre), as described in column 30, line 67, and column 31, lines 1-8;

Allowing the user to browse the program listings for the suggested programs by displaying the program airing on the current channel and simultaneously displaying a display region containing the program listing for one of the suggested programs, as described in column 13, lines 48-50, and column 31, lines 5-8.

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Regarding claims 3, 29, 55, Alexander discloses an apparatus and method, as claimed, wherein the program attributes are program actors, program duration, program genre, and program channel, as described in column 29, lines 37-55.

Regarding claims 4, 30, 56, Alexander discloses an apparatus and method, as claimed, wherein:

Displaying available program attributes, such as program channels, program genre; and

Allowing the user to select which available program attributes are to be used in identifying program listings, as described in column 28, lines 13-20.

Regarding claims 5, 31, 57, Alexander discloses an apparatus and method, as claimed, wherein identifying program listings based on plurality of program attributes, such as program channels and program genre, as described in column 30, lines 53-58, and column 31, lines 5-8.

Regarding claims 8, 34, 60, Alexander discloses an apparatus and method, as claimed, wherein determining the last displayed program which was viewed for a substantial portion of the program length, as described in column 29, lines 50-55, and column 28, lines 32-38.

Regarding claims 9, 35, 61, Alexander discloses an apparatus and method, as claimed, wherein:

“determining from”;

“determining when”;

“determining how long”;

as described in column 29, lines 50-55, and column 28, lines 32-38.

Regarding claims 10, 36, 62, Alexander discloses an apparatus and method, as claimed, wherein:

“training a neural network”;

“applying attributes”;

as described in column 28, lines 32-38, column 29, lines 37-55, column 30, lines 59-67, and column 31, lines 1-8.

Regarding claims 11, 37, 63, Alexander discloses an apparatus and method, as claimed, wherein calibrating the trained neural network to match viewing interests, such as interests in watching future scheduled programs, as described in column 30, lines 24-25, or interested in particular theme or movie, as described in column 30, lines 40-44.

Regarding claims 12, 38, 64, Alexander discloses an apparatus and method, as claimed, wherein selecting to use attributes of a specific program in training the neural network, as described in column 29, lines 60-67.

Regarding claims 13, 39, 65, Alexander discloses an apparatus and method, as claimed, wherein ignoring selected program types in training the neural network, such as ignoring program types or channels blocked by parents in parental control, as described in column 17, lines 27-36, or column 10, lines 10-12.

Regarding claims 14, 40, 66, Alexander discloses an apparatus and method, as claimed, wherein selectively associating with each of plural users a different program attribute to be determined, as described in column 28, lines 22-25 (individualized profile

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accessed by PIN), column 29, lines 37-55 (attributes per viewer), and column 17, lines 27-34 (parental control).

Regarding claims 15, 41, 67, Alexander discloses an apparatus and method, as claimed, wherein the display region is an overlay, as described in column 13, lines 48-55.

Regarding claims 16, 42, 68, Alexander discloses an apparatus and method, as claimed, wherein "displaying a video display region", as described in column 13, lines 48-55, and column 15, lines 16-22.

Regarding claims 17, 43, 69, Alexander discloses an apparatus and method, as claimed, wherein displaying an on-screen confirmation portion confirming that user program identifying is being aided, as described in column 14, lines 58-62, and column 15, line 7.

Regarding claims 18, 44, 70, Alexander discloses an apparatus and method, as claimed, wherein displaying an iconic on-screen confirmation portion, as described in column 15, lines 12-16.

Regarding claims 19, 45, 71, Alexander discloses an apparatus and method, as claimed, wherein displaying a textual on-screen confirmation portion, as described in column 14, lines 58-62, and column 15, lines 16-22.

Regarding claims 20-21, 46-47, 72-73, Alexander discloses an apparatus and method, as claimed, wherein allowing the user to select the program listing contained in the display region, and displaying the selected program, as described in column 30, lines 53-58, and column 4, lines 17-22.



Regarding claims 22, 48, 74, Alexander discloses an apparatus and method, as claimed, wherein "displaying selectable options", as described in column 9, lines 57-59 (lock/unlock).

Regarding claims 23, 49, 75, Alexander discloses an apparatus and method, as claimed, wherein selectively enabling user program identifying that is aided (user has the option not to use the feature), as described in column 30, lines 51-53.

Regarding claims 24, 50, 76, Alexander discloses an apparatus and method, as claimed, wherein allowing the user to invoke the displaying, as described in column 16, lines 36-39.

Regarding claims 25, 51, 77, Alexander discloses an apparatus and method, as claimed, wherein "building a list of program listings", as described in column 17, lines 3-12, and column 30, lines 53-58.

Regarding claims 26, 52, 78, Alexander discloses an apparatus and method, as claimed, wherein allowing the user to select to use at least one attribute of the current program in identifying program listings, as described in column 29, lines 1-11, lines 28-30, and column 30, lines 53-58. This embodiment provides an alternative to viewer profile information collection described in column 28, lines 13-20, wherein the EPG displays an on-screen survey queries to viewers watching a particular program at a particular time. The survey queries contain attributes described in column 28, lines 13-20. The program profile of the EPG processes the captured data in real-time, as described in column 29, lines 28-30, and customize the program listing display, as described in column 53-58.

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Regarding claims 151, 156, 161, Alexander discloses an apparatus and method, as claimed, wherein:

A user TV equipment on which an IPG is implemented, as described in column 3, lines 1-20;

“to display a television screen”, as described in column 13, lines 48-55;

“to sequentially browse”, as described in column 3, lines 7-14;

“to limit which program listings are displayed”, as described in column 30, lines 53-58;

“to allow the user to adjust the relative importance”, as described in (watch scheduling) column 9, lines 65-67, column 10, lines 1-12, (parental control) column 17, lines 27-33, wherein various program attributes are program title, scheduled program duration, program rating and program content rating. The EPG then customizes the display according to the day of the week and the time of the day, as described in column 30, lines 59-61.

Regarding claims 152, 157, 162, Alexander discloses an apparatus and method, as claimed, wherein “building a list of program listings”, as described in column 17, lines 3-12, and column 30, lines 59-61.

Regarding claims 153, 158, 163, Alexander discloses an apparatus and method, as claimed, wherein “allow the user to select”, as described in column 4, lines 13-27.

Regarding claims 154, 159, 164, Alexander discloses an apparatus and method, as claimed, wherein “to limit”, as described in column 30, lines 47-51, and lines 59-61.

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Regarding claims 155, 160, 165, Alexander discloses an apparatus and method, as claimed, wherein the display region is an overlay, as described in column 13, lines 48-55.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 28, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander in view of Hendricks U.S. Patent 6,181,335.

Alexander discloses an apparatus and method, as claimed, wherein the EPG records information when there is an absence of interaction between the viewer and the TV or the EPG as part of viewer profile information in order to determine viewer characteristics or viewer preferences, as described in column 28, lines 53-55.

Alexander does not disclose a predetermined period of absence of interaction between the viewer and the TV or the EPG, after which the EPG begins to record the information.

Hendricks discloses an EPG, wherein when a viewer remains on a channel for more than 30 seconds, a log entry is created for report to the headend, as described in column 29, lines 52-62.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Alexander to include a predetermined period of 30 seconds, as disclosed by Hendricks, to enable the real-time Profile Program to identify the attributes of the currently viewed channel to customize the program listings display.

8. Claims 6-7, 32-33, 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander in view of Herz U.S. Patent 6,088,722.

Regarding claims 6, 32, 58, Alexander discloses an apparatus and method, as claimed.

Alexander does not disclose associating a user-selectable weight with each program attribute.

Herz discloses associating a user-selectable weight with each program attribute, as described in column 10, line 49, and column 11, lines 27-34.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Alexander to include associating a user-selectable weight with each program attribute, as disclosed by Herz, to enable the Profile Program to factor in the level of importance of each program attributes when identifying the program listing.

Regarding claims 7, 33, 59, Alexander discloses an apparatus and method, as claimed.

Alexander does not disclose identifying the program listing based on the weight associated with each program attribute.

Herz discloses developing an agreement matrix used for program scheduling, wherein each program attribute is associated with a weight, as described in column 10, line 49, column 11, lines 27-34, lines 60-67, and column 19, lines 35-60.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Alexander to include identifying the program listing based on the weight associated with each program attribute, as disclosed by Herz, to enable the Profile Program to factor in the level of importance of each program attributes when identifying the program listing.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stubbe U.S. Patent 5,223,924 discloses a system and method for automatically correlating user preferences with a T.V. program information database.

Hashimoto U.S. Patent 5,075,771 discloses a method of and apparatus for optimal scheduling of television programming to maximize customer satisfaction.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert T Pham whose telephone number is 703-305-4810. The examiner can normally be reached on M-F 7:30-5; every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9700.

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Robert Pham  
August 21, 2002